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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/654,797
Filing Date	September 4, 2003
First Named Inventor	Gregory S. Marler
Art Unit	3743
Examiner Name	Nihir Patel
Attorney Docket Number	3418-A-23

Total Number of Pages in This Submission

6

ENCLOSURES (Check all that apply)

- | | | |
|--|---|---|
| <input type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance communication to Technology Center (TC) |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
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| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Terminal Disclaimer | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Request for Refund | Table 1 |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> CD, Number of CD(s) _____ | Sheets 2 and 5 of drawings |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | | Postcard |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application | | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	William C. Cahill Cahill, von Hellens & Glazer P.L.C.
Signature	
Date	July 8, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	William C. Cahill
Signature	
Date	July 8, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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TFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

EXAMINER: Nihir Patel

Docket No. 3418-A-23

APPLICANT: Marler et al.

Date: July 8, 2004

SERIAL NO.: 10/654,797

Art Unit: 3743

FILED: September 4, 2003

FOR: HEAT AND MOISTURE FILTER EXCHANGER AND METHOD

RESTRICTION REQUIREMENT RESPONSE

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

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July 8, 2004

(Date of Deposit)

William C. Cahill

Name of applicant, assignee or Registered Rep.

Signature

Date

Dear Sir:

In response to the Office Action of June 15, 2004, applicants respectfully traverse the requirement for election and respectfully request the withdrawal of the requirement. The examiner has stated "Currently no claims are generic". Applicants do not understand this statement. For example, at least Claim 1 is believed to be clearly generic to all species disclosed in the application.

Applicants attach hereto copies of figures of the drawings present in the case with notations in red thereon to facilitate correlating the elements shown in the figures of the two species with the corresponding elements recited in Claim 1. It is believed that the accompanying table and copies of relevant figures demonstrate that at least Claim 1 is generic to both species.

However, to comply with the requirements of 37 C.F.R. 1.141, applicants hereby make the following election:

Provisional Election

Applicants provisionally elect the species shown in Figures 2, 2A, 3, 4, 5 and 6. It is believed Claims 1, 2, 3, 7, 8, 9, 12 and 13 are applicable to this species.

Respectfully submitted,

CAHILL, VON HELLENS & GLAZER P.L.C.

A handwritten signature in black ink, appearing to read 'W. Cahill', is written over a horizontal line.

William C. Cahill

2141 East Highland Avenue
155 Park One
Phoenix, Arizona 85016
(602) 956-7000
Docket No. 3418-A-23

Restriction Requirement Response

<u>Claim elements of Claim 1</u>	<u>Species of Figs. 2, 2A, 3, 4, 5 & 6</u>	<u>Species of Figs. 7, 8, 9, 10</u>
(a) a housing...	40, 50	400,500
a ventilator-side port...	21	21
the housing also having a patient side port...	25	25
(b) a structure within the housing forming a first path...	Path A in Fig. 3	Path A in Fig. 8
from ventilator side port...	21	21
through moisturizing medium...	15	15
and a second path...	Path B in Fig. 3	Path B in Fig. 8
(c) a two-way valve mechanism...	23	230

Table 1

Attachment to Restriction Requirement Response